

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CALISIA KELLEY and JOHNNIE MAE)
KELLEY, Co-Administrators of the)
ESTATE OF BRUCE KELLEY JR.,)
deceased,)
Plaintiffs,)
v.) 2:17-cv-01599-NBF
Judge Nora Barry Fischer
BRIAN O'MALLEY, both in his Official)
and Individual Capacities as Sergeant for the)
Allegheny County Port Authority and)
DOMINIC RIVOTTI, in both his Official)
and Individual Capacities as Officer for the)
Allegheny County Port Authority,)
Defendants.)

ORDER OF COURT

AND NOW, this 10th day of August, 2021, upon consideration of Defendants' Motion for Summary Judgement, Concise Statement of Material Facts, and Brief in support, (Docket Nos. 119; 120; 121), as well as Plaintiffs' Appendix, Concise Statement, and Brief in opposition thereto, (Docket Nos. 122; 123; 124), Defendants' Response and Reply Brief, (Docket Nos. 127; 128), Plaintiff's Sur-Reply and Appendix, (Docket Nos. 131; 131-1), and Defendant's Appendix to its Concise Statement, (Docket No 133),

AND in light of recent case law from the United States Supreme Court, namely *Lombardo v. City of St. Louis, Missouri*, 141 S.Ct. 2239, 2021 WL 2637856 (2021), wherein the Court held that summary judgment was improperly granted because fact issues existed about whether the use of force under the circumstances was excessive,

IT IS HEREBY ORDERED that both parties shall file supplemental briefs by August 24,

2021, addressing the applicability of the *Lombardo* decision to the facts of the present case.

/s Nora Barry Fischer
Nora Barry Fischer
Senior United States District Judge

cc/ecf: All counsel of record